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In re application of
Waldemar Kiener et al.
Serial No. 09/746,732
Filed: December 21, 2000
For: PROCESS AND APPARATUS FOR PRODUCING A
LAMINATE, COMPRISING AT LEAST ONE POLYMER FILM
WITH INFORMATION AND AT LEAST ONE SUBSTRATE,
FOR FURTHER PROCESSING FOR FORGERY-PROOF
DOCUMENTS

DECISION ON
PETITION

This is a decision on a Petition filed of January 9, 2004 entitled "Petition Not to Apply a Restriction Requirement to the Claims Submitted in the Further Amendment After Final Action Resubmitted in this RCE," which is being treated as a Petition to review the restriction requirement as set forth in the Office action mailed August 7, 2002 under 37 CFR 1.144 filed August 7, 2003.

DECISION

A review of the Petitioner's request and the application record indicates that this Petition cannot be granted at this time. On September 12, 2002, the applicant responded to the August 7, 2002 written Restriction Requirement, by electing Group I (Claims 1-12). This election was properly construed as being an election without traverse, since the applicant failed to distinctly and specifically point out the supposed errors in the restriction requirement (See M.P.E.P. 818.03(c)).

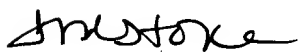
As set forth in 37 CFR 1.144:

After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. **A petition will not be considered if reconsideration of the requirement was not requested** (emphasis added).

According to M.P.E.P. 821.02, where the initial requirement is not traversed, the examiner will acknowledge the election without traverse using form paragraph 8.06 (see Paper #9, paragraph 1). This will show that the applicants have not retained the right to petition the

requirement under 37 CFR 1.144. Thus, the applicants' failure to distinctly and specifically point out the supposed errors in the election response of September 12, 2002 waived any right to petition the restriction requirement of August 7, 2002.

This Petition is **DISMISSED**.



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